

ORDINANCE NO. 830

**AN ORDINANCE REQUIRING THE REMOVAL OF NON-CERTIFIED WOOD STOVES AND FIREPLACE INSERTS AS LOCATED IN A DWELLING WHEN THAT DWELLING IS SOLD OR OTHERWISE TRANSFERRED; PROVIDING PENALTIES FOR A VIOLATION HEREOF AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to the provisions of ORS 468A.010, the Town of Lakeview has the authority, in order to protect the health, safety and welfare of its citizens, to adopt and enforce air quality ordinances; and

WHEREAS, the Town Council of the Town of Lakeview finds that it is necessary for health and safety reasons to require that noncertified wood stoves and fireplace inserts be removed from a dwelling when that dwelling is sold or otherwise transferred, now, therefore,

THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

**Section 1. - Purpose:** The purpose of this Ordinance is to establish rules to control, reduce and prevent air pollution caused by wood heating emissions by requiring that non-certified wood stoves and fireplace inserts be removed when located in a dwelling that is sold or otherwise transferred.

**Section 2. - Definitions:** For the purpose of this Ordinance, the following definitions are hereby established:

(a) **Antique Wood Stove.** Any wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period.

(b) **Dwelling.** Any structure or part of a structure that is used by one or more persons as a home, residence or sleeping place.

(c) Cook Stove. Any indoor wood burning appliance the design and primary purpose of which is to cook food.

(d) Fireplace. A framed opening made in a chimney to hold an open fire.

(e) Non-Certified Wood Stove or Fireplace Insert. Any wood burning space heating device that has not been certified by either the State of Oregon Department of Environmental Quality or Federal Environmental Protection Agency as complying with smoke emission standards.

(f) Pellet Stove. Any wood burning heating appliance which uses wood pellets as its primary source of fuel.

(g) Sale of Dwelling. Any transfer of ownership from one owner to another owner whether by deed, contract of sale, note and mortgage, note and trust deed or by descent and distribution. The sale of a dwelling does not include a rental agreement, lease agreement or option agreement.

**Section 3. - Scope:** This Ordinance applies to all non-certified wood stoves or fireplace inserts located within the jurisdictional limits of the Town of Lakeview as now in effect or which may be changed from time to time through annexation proceedings.

**Section 4. - General Prohibition:** All non-certified wood stoves or fireplace inserts shall be removed from any dwelling upon the sale of such dwelling.

**Section 5. - Exemptions:** Nothing contained in this Ordinance applies to antique wood stoves, cook stoves, fireplaces or pellet stoves, as those terms are defined in Section 2, above and said devices are to be considered specifically exempt from the terms and provisions of this Ordinance.

**Section 6. - Responsibility for Removal:** The removal of non-certified wood stoves or fireplace inserts shall be the responsibility of the seller of the dwelling which contains the non-certified wood stove or fireplace insert, unless the seller and buyer of the dwelling being sold agree

in writing that it shall be the buyer's responsibility.

If the removal is the responsibility of the seller, then removal shall be accomplished prior to the sale of the dwelling containing the non-certified wood stove or fireplace insert. If the removal is to be the responsibility of the buyer, then such removal shall be accomplished within 30 days after the sale of the dwelling.

**Section 7. - Disclosure Requirements:** The presence of any non-certified wood stove or fireplace insert in a dwelling shall be disclosed by the seller to the buyer as part of the sale and purchase of any such dwelling. The disclosure shall be evidenced by a certificate completed by the seller and given to the buyer, which certificate shall be in substantially the form as set out on attached Exhibit "A" to this Ordinance.

**Section 8. - Completion of Certificate:** The disclosure certificate shall be prepared by the seller, executed by the seller and the buyer, and delivered by the seller to the buyer at the closing of any sale involving a dwelling containing a non-certified wood stove or fireplace insert. Additionally, a copy of the disclosure certificate after execution and delivery shall be submitted to the Town of Lakeview. The completion and delivery of the disclosure certificate shall be required whether the sale transaction is closed in escrow or closed by the seller and buyer without a closing escrow.

**Section 9. - Enforcement.** The Town's Police Chief, or his designee, will have primary responsibility for the enforcement of the regulations as contained in this Ordinance.

**Section 10. - Penalty.** A violation of this Ordinance shall be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class B Violation pursuant to the provisions of ORS 153.008, ORS 153.012 and ORS 153.018 as now in effect or as may be amended from time to time.

**Section 11. - Emergency and Effective Date.** This Ordinance and its purposes being necessary for the preservation of the public peace, health and safety of the citizens of the Town of Lakeview, an emergency is hereby declared to exist and this Ordinance shall take effect immediately upon its adoption by the Town Council.

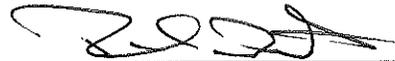
A motion was made to read this Ordinance by title only and such motion passed unanimously. Thereafter, the Ordinance was read by title only and was adopted as indicated below.

Passed by the Town Council by a vote as follows:

4 In Favor

0 Opposed

Adopted this 11 day of March, 2008.

  
\_\_\_\_\_  
Rick Watson, Mayor

Attest:

  
\_\_\_\_\_  
Christy Sarina, Town Recorder

**Non-Certified Wood Stove or Fireplace Insert Disclosure**

This disclosure is executed by the undersigned Seller(s) and Buyer(s) pursuant to Town of Lakeview Ordinance No. 830.

Seller(s)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

Buyer(s)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

Seller(s) disclose to Buyer(s) that a non-certified wood stove or fireplace insert is within a dwelling being sold by Seller(s) to Buyer(s) as located within the Town of Lakeview at \_\_\_\_\_.

\_\_\_\_\_  
(Street address)

Pursuant to Town Ordinance No. 830, the removal of the non-certified wood stove or fireplace insert shall be the responsibility of Seller(s) \_\_\_\_\_ or Buyer(s) \_\_\_\_\_.  
(indicate which)

If the removal is the responsibility of Seller(s), the same shall be accomplished prior to the sale of the dwelling.

If the removal is the responsibility of Buyer(s), the same shall be accomplished within 30 days after the sale of the dwelling.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer